

REMARKS/ARGUMENTS

Summary of Applicant's Amendments

Applicants have cancelled claims 1-23 and 54-61 without prejudice and solely in order to expedite prosecution.

Applicant has amended claims 27, 28, 31-38 solely in order to expedite prosecution.

Applicant has added new claims 62-96 in order to more particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Applicants reserve the right to claim any subject matter lost by any claim amendment or cancellation in one or more continuation or divisional applications.

Response to the Restriction Requirement

In the Office Action mailed October 16, 2006, the Examiner issued a restriction requirement and required that an election be made from the following groups:

I. Claims 1-23, drawn to a composition, classified in class 530, subclass 300 and class 514, subclass 2;

II. Claims 24-53, drawn to a method, classified in class 530, subclass 300 and class 514, subclass 2; and

III. Class 54-61, drawn to a device, classified in class 530, subclass 300, class 422, subclass 50.

Applicant hereby elects, with traverse, Group II (claims 24-53) for examination.

Applicant respectfully reserves the right to pursue the subject matter of Groups I or II in one or more divisional or continuation applications.

Response to the Species Election Requirement

The Examiner stated that:

" For Groups II and III, this application contains claims directed to the following patentably distinct species of the claimed invention: biologically active substance, drug, gelling agent. The species are independent or distinct because they are structurally and functionally divergent and would require separate non-overlapping searches.

Should Group II or III be elected, applicants are required to select a single biologically active substance from claim 27, single drug from claim 31, single gelling agent from claim 35."

(Office Action, page 4)

The Examiner also noted that "claim 11 is generic" (Office Action, page 4).

Applicants respectfully submit that at least claim 24 is also generic as all of the claims provided in Group II include each and every feature of claim 24. Claims 25-53 and 62-96 depend from claim 24.

With respect to claim 27, applicants respectfully select drugs. Applicants, however, have amended claim 27 to include "wherein said biologically active substance comprises a drug."

With respect to claim 31, applicants respectfully select cytotoxics. Applicants, however, have amended claim 31 to include "wherein said drug comprises a cytotoxic."

With respect to claim 35, applicants respectfully select cellulose derivatives. Applicants, however, have amended claim 35 to claim "wherein said gelling agent comprises a cellulose derivative."

Conclusion

An early and favorable action is respectfully requested.

The Director is hereby authorized to charge payment of any additional fees required in connection with this Restriction Requirement, to Deposit Account No. 06-1075, Order No. 002162-0001. A duplicate copy of this letter is transmitted herewith.

Respectfully submitted,



Jeffrey D. Mullen
Reg. No. 52,056
Agent for Applicant
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000